

BEFORE THE HON'BLE ADJUDICATING OFFICER,  
TNRERA, CHENNAI  
I.A. No. 153 of 2021  
in  
C.C.P. No. 48 Of 2020

Kuresh Allihussan Kapadia

... Petitioner/Respondent-2

-Vs-

Yasmin Bhagat

... Respondent/Complainant

Petitioner/  
Respondent-2 : Rep. by M/s. Arva Merchant, Advocates

Respondent/  
Complainant : Rep. by M/s.R.Ramasubramaniam Raja, Advocates.

Heard and delivered on : 03.09.2021

**ORDER**

1. The above petitioner filed this petition under section 38(2) of the RERA Act. The affidavit of the petitioner/2<sup>nd</sup> respondent is filed in support of the petition. The petitioner is the 2<sup>nd</sup> respondent in the main case and was exploring the chance for settlement of dispute between the parties. In the meanwhile, he had given a change of vakalath to the present counsel. The delay in filing the counter of the petitioner in the main case is neither willful nor wanton. If the present petition for reopening the case to file the counter is not allowed, the petitioner will be put to irreparable injury. Hence, the petitioner prays for reopening of the case and to accept counter with documents and also the evidence on his side.

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2. In her counter, the respondent/complainant contended that the petition to reopen the case is not maintainable. No sufficient cause is shown for not filing the counter in time. The petitioner acted in negligent manner. The petition lacks bonafide. The reason for not filing the counter is false and baseless. In spite of sufficient time being given, the petitioner deliberately delayed the filing of counter. Hence, the petition is liable to be dismissed with exemplary cost.

3. Heard both sides. On perusal of the documents, it is seen that in spite of sufficient opportunity for filing the counter is being given by this Forum, the petitioner has not chosen to file the counter in time. The reasons stated in the petition and affidavit is not legally sustainable. However, considering that, since the argument of the counsel for the respondent/complainant was heard on the last occasion, i.e. on 17.08.2021 and the matter is still pending for the respondent's side argument and the petitioner filed counter with documents and proof affidavit on his side, this Forum is of the opinion that in the interest of justice, the petitioner can be given an opportunity by allowing the petitioner to reopen the case, but with a condition of payment of cost to the respondent/complainant.

In the result, the petition is allowed on condition of payment of cost of Rs.3,000/- by the petitioner/2<sup>nd</sup> respondent to the counsel for the respondent/complainant on or before 22.09.2021, failing which the petition stands dismissed.

**Sd/- 03.09.2021**  
**G.SARAVANAN**  
**ADJUDICATING OFFICER**  
**TNRERA, CHENNAI**

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3.9.2021  
**LAW OFFICER**  
**TNRERA REAL ESTATE REGULATORY AUTHORITY**